

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:12-CV-77-FL

SUSAN YORK,)
)
Plaintiff,)
)
v.)
)
CBS CORPORATION,)
)
Defendant.)

ORDER

This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge William A. Webb, regarding plaintiff’s motion for summary judgment (DE 14), defendant’s cross motion for summary judgment (DE 19), and defendant’s motion to seal (DE 18). No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

Plaintiff, who appears *pro se*, filed this action *in forma pauperis* on November 20, 2012, to recover disability retirement benefits under her former employer’s pension plan in accordance with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.* Plaintiff worked for Knoll International, Inc. (“Knoll”) from January 26, 1970 until March 17, 1990, when she became disabled from her employment at age forty-three. The Knoll pension plan under which plaintiff seeks benefits eventually merged with a pension plan sponsored and administered by defendant. As discussed more particularly in the M&R, summary judgment is warranted as to plaintiff’s ERISA claim because it is untimely, where the claim accrued on November 17, 1993, the date Knoll issued its formal denial of benefits. See White v. Sun Life Assurance Co. of Can., 488

F.3d 240, 246 (4th Cir. 2007). Furthermore, plaintiff fails to show entitlement to disability retirement benefits under the Knoll pension plan, and she has failed to raise a genuine issue of material fact as to the interpretation of the pension plan. Therefore, plaintiff's motion for summary judgment shall be denied and defendant's motion for summary judgment shall be granted.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own (DE 25), and, for the reasons stated therein, plaintiff's motion for summary judgment is DENIED (DE 14), and defendant's cross-motion for summary judgment is GRANTED (DE 19). For good cause shown, defendant's motion to seal is GRANTED (DE 18). The clerk of court is directed to close this case.

SO ORDERED, this the 31st day of July, 2013.



LOUISE W. FLANAGAN
United States District Judge